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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO.       |
|--|-------------|----------------------|------------------------------|------------------------|
| 10/534,670   | 10/19/2005  | Harri Kiljander      | 4208-4252                    | 6528                   |
| 27123  | 7590        | 09/05/2007           |                              |                        |
| MORGAN & FINNEGAN, L.L.P.<br>3 WORLD FINANCIAL CENTER<br>NEW YORK, NY 10281-2101 |             |                      | EXAMINER<br>BELOUSOV, ANDREY |                        |
|  |             |                      | ART UNIT<br>2174             | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>09/05/2007      | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/534,670

Applicant(s)

KILJANDER, HARRI

Examiner

Andrew Belousov

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/10/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the original filing of May 10, 2005. Claims 1-16 are pending and have been considered below.

#### ***Specification***

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15 and 16 are rejected under 35 U.S.C. 101 because claim 15 is drawn to a computer program per se. A computer program is not a series of steps or acts and this is not a process. A computer program is not a physical article or object and as such is not a machine or manufacture. A computer program is not a combination of substances and therefore not a compilation of matter. Thus, a computer program by itself does not fall within any of the four categories of invention. Therefore, claim 15 is not statutory.

Claim 16 is drawn to a computer program embodied on a carrier medium (i.e. electronic transmission signal). The Office considers an electronic signal to be a form of energy. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not

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a combination of substances and therefore not a compilation of matter. Thus, an electronic transmission signal does not fall within any of the four categories of invention. Therefore, claim 16 is not statutory.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-10, 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Microsoft (Microsoft® Windows XP® Operating System, released October 25, 2001, and Rathbone, Windows XP for Dummies Copyright (c) 2001, as extrinsic evidence of the Microsoft Windows XP Operating System.)

**Claim 1, 14, 15, 16:** Microsoft discloses a device comprising a user interface and a processor configured to:

- a. receive a request for access to a menu from a user (Fig. 2: 20, allows a user to Auto-hide the taskbar menu, such that subsequent movement by the user (request) of a cursor to / at the bottom of the screen would bring up the taskbar menu up);
- b. compile a list of menu options (an inherent feature of the Windows XP OS in order to display the list of applications as shown in Fig. 1: 6);

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- c. determine whether an application associated with a menu option is active or inactive and associate a corresponding status indicator (Fig. 1: 2, 4; indentation and shading) with the menu option; and
- d. display the list of menu options, where the presentation of a particular menu option is dependent on its associated status indicator (Fig. 1: 6.)

**Claim 2:** Microsoft discloses a device according to claim 1, wherein a plurality of menu options are presented according to their corresponding status indicators simultaneously (Fig. 1: 6.)

**Claim 3:** Microsoft discloses a device according to claim 1, wherein the display further comprises a focus window (Fig. 1: 8) and the menu option corresponding to the position of the focus window is presented according to its associated status indicator (Fig. 1: 2.)

**Claim 4:** Microsoft discloses a device according to claim 1, wherein the status indicator is an icon and is displayed in the list of menu options (Fig. 1: 2, 4.)

**Claim 6:** Microsoft discloses a device according to claim 4, wherein the application status is indicated by the color properties of the icon (Fig. 1: 2, 4; light gray v. dark gray.)

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**Claim 7:** Microsoft discloses a device according to claim 3, configured to produce an alert (indented and shaded; Fig. 1: 2) where a menu option corresponding to the position of the focus window is associated with an active status indicator (Fig. 1: 2.)

**Claim 8:** Microsoft discloses a device according to claim 7, wherein an alert is produced using one or more of the following: animation of an icon, color, sound or vibration (e.g. indented and shaded; Fig. 1: 2.)

**Claim 9:** Microsoft discloses a device according to claim 1, wherein the user interface comprises a display and a keypad (Rathbone, page 25, 26.)

**Claim 10:** Microsoft discloses a device according to claim 1, further configured to allow multitasking of applications (Rathbone, page 52.)

**Claim 13:** Microsoft discloses a personal computer device according to claim 1 (Rathbone, page 16.)

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft in view of Gillespie et al., (2002/0191029.)

**Claim 5:** Microsoft discloses a device according to claim 4. However, Microsoft does not explicitly disclose wherein the application status is indicated by the animation of the icon. However, Gillespie teaches a device with a user interface utilizing a visual convention of animating activated icons (par. 0060.) Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of Gillespie to the disclosure of Microsoft. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

7. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft in view of Shields et al., (5,910,802.)

**Claim 12, 13:** Microsoft discloses a device according to claim 1. However, Microsoft does not explicitly disclose that such a device is a handheld telecommunications device. Shields discloses a scaled down version of a Windows operating system, Windows CE, which is run on a handheld telecommunications device (1:10-15; 2:43-50.) Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

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made to combine the teaching Microsoft to a handheld telecommunications device of Shields. Such a combination would have been obvious because the design incentives or market forces provided a reason to make an adaptation, and the invention resulted from application of the prior knowledge, of Microsoft, in a predictable manner to a new platform (i.e. handheld) as disclosed in Shields.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Belousov whose telephone number is (571) 270-1695. The examiner can normally be reached on Mon-Fri (alternate Fri off) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3800.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AB

August 21, 2007

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